

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ANDREW L. CHICARELLI,

Petitioner,

v.

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CIVIL ACTION NO. 1:13CV103  
(Judge Keeley)

GEORGE TRENT,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On March 1, 2013, the pro se petitioner, Andrew Chicarelli ("Chicarelli") filed a petition pursuant to 28 U.S.C. § 2254. The Court referred this matter to United States Magistrate Judge David J. Joel for initial screening and a report and recommendation in accordance with LR PL P 2. On March 4, 2013, Magistrate Judge Joel issued an Opinion and Report and Recommendation ("R&R"), in which he recommended that Chicarelli's § 2254 petition be denied and dismissed without prejudice. (Dkt. No. 6). The magistrate judge determined that Chicarelli has not yet filed a direct appeal or state habeas corpus petition and, as such, his § 2254 petition is premature.

The R&R also specifically warned Chicarelli that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. He did not

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

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file any objections.\* Consequently, finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 6), **DENIES** the § 2254 petition (dkt. no 1) and **ORDERS** that this case be **DISMISSED WITHOUT PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: April 4, 2013.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE

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\* The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).